

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
) 4:18CR3074
Plaintiff,) 4:18CR3005
) July 12, 2018
vs.) 11:18 a.m.
) Lincoln, Nebraska
TAYLOR MICHAEL WILSON,)
)
Defendant.)

TRANSCRIPT OF GUILTY PLEA PROCEEDINGS
BEFORE THE HONORABLE CHERYL R. ZWART
UNITED STATES MAGISTRATE JUDGE

A-P-P-E-A-R-A-N-C-E-S

FOR THE PLAINTIFF: Lesley A. Woods
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Proceedings recorded by digital recording; transcript
produced with computer.

1 (At 11:18 a.m. on July 12, 2018, with counsel for
2 the parties and the defendant present, the following
3 proceedings were had:)

4 THE COURT: We're on the record in two cases, case
5 number 4:18CR3005 and case number 4:18CR3074.

6 Both cases are indictments by the United States
7 against Taylor Michael Wilson.

8 Counsel, please enter your appearance.

9 MS. WOODS: Yes, Your Honor, please show the
10 appearance of Lesley Woods for the United States.

11 MR. SENA: Good morning, Your Honor. Please show
12 the appearance of Jerry Sena on behalf of defendant Taylor
13 Wilson, who is present.

14 THE COURT: Mr. Wilson, you are Taylor Michael
15 Wilson, correct?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: You are here today because I've been
18 told that you want to enter a plea of guilty to an indictment
19 that arises out of this district, and that is the earlier
20 case number, 3005, and an indictment that arises out of the
21 Eastern District of Missouri, and their case number was
22 4:18CR90.

23 Were you aware that that's why you're here today?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Let me talk to you first about the case

1 that comes out of Missouri.

2 You have the right to go back to Missouri if you
3 choose to and litigate the case there. Do you understand
4 that?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: I have what is called a Rule 20 consent
7 form filed here.

8 What that means is that the government has agreed
9 that if you are willing to plead guilty in this district to
10 the Missouri indictment, that Missouri is willing to let you
11 do that rather than go back there and face charges. Did you
12 agree to that?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: I need to make sure that you understand
15 what the allegations are in the indictment out of Missouri.

16 At this time -- at least the one to which you are
17 pleading guilty -- at this time I'm going to have Ms. Woods
18 explain that allegation to you and the possible penalty
19 you're facing. Miss Woods?

20 MS. WOODS: Yes, Your Honor, the indictment charged
21 four counts.

22 I believe the defendant intends to plead guilty to
23 Count IV so I will summarize that.

24 The grand jury alleged that from on or about
25 September 2015 through December 23rd, 2017, in the Eastern

1 District of Missouri and elsewhere, that he, Taylor Wilson,
2 the defendant, did knowingly receive and possess a firearm,
3 that being a nine millimeter Luger caliber CZ model Scorpion
4 rifle that would have a specific serial number that is
5 alleged there, and the issue with that being it was not
6 registered to the defendant in the National Firearms
7 Registration and Transfer Record.

8 This is a violation of Title 26, United States Code,
9 Section 5861(d) and punishable under another section of that
10 code.

11 Mr. Wilson, do you understand this charge from the
12 Eastern District of Missouri?

13 THE DEFENDANT: Yes, ma'am.

14 MS. WOODS: And I believe the possible penalty for
15 that is up to ten years in federal prison, a \$250,000 fine,
16 and up to three years of supervised release. Do you
17 understand the possible penalty, sir?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right. Because my understanding is
20 Mr. Wilson hasn't actually gone to Missouri and received an
21 initial appearance, correct?

22 MS. WOODS: Your Honor, it's interesting, the
23 complaint in our case, he had his initial there under Rule 5
24 from our case.

25 So he was before a Missouri judge, but it was on our

1 case.

2 THE COURT: I think in the interest of completeness,
3 even though I mis-worded it, I said let's do the charge to
4 which he intends to plead guilty, I think we should advise
5 him of all of the charges that he's facing out of Missouri.

6 So please advise him of the other charges that he's
7 facing out of Missouri as well.

8 MS. WOODS: I will, Your Honor, and what I've got
9 for that is four counts.

10 In addition to the fourth count, which we just
11 summarized, the first count alleges the same date, on or
12 about September 2015 through December 23rd, 2017, in the
13 Eastern District of Missouri and elsewhere, that he did
14 possess a machine gun, that being a Pioneer Arms submachine
15 gun with a specific model number and caliber identified.

16 This is in violation of Title 18, United States
17 Code, Section 922(o) and punishable under 924(a)(2).

18 Count II concerns the same weapon, that from on or
19 about September 2015 through December 23rd, 2017, in the
20 Eastern District of Missouri, that he did knowingly possess
21 that firearm, a submachine gun, that had been shipped and
22 transported in interstate commerce at some time prior to his
23 possession, but that had an obliterated, removed or altered
24 serial number.

25 This would be in violation of Title 18, United

1 States Code, Section 922(k) and 924(a)(1)(B).

2 The third count alleges the same dates in the
3 Eastern District of Missouri that he did knowingly possess a
4 machine gun, again that same submachine gun, that was not
5 registered in the National Firearms and Transfer Record.

6 And that's going to be the same count, for Count IV,
7 but a different weapon, so the statutes would also be the
8 same, in violation of Title 26, United States Code, Section
9 5861(d) and punishable under Section 5871 of that same title.

10 Mr. Wilson, I know you previously acknowledged you
11 understand Count IV.

12 Do you also understand the other three counts that
13 the Eastern District of Missouri alleged?

14 THE DEFENDANT: Yes.

15 MS. WOODS: And then the penalties for those, the
16 first one is not more than ten years in federal prison, with
17 a fine of \$250,000, or both, supervised release, and not more
18 than three years, and there is an option that if they had
19 chosen so they could do a mandatory minimum of thirty years
20 on that count.

21 For the possession of a firearm with an obliterated
22 serial number it's not more than five years, not more than a
23 \$250,000 fine, supervised release of not more than three
24 years, and a one hundred dollar special assessment.

25 For the third count and the fourth count it's the

1 same as before.

2 Ten years, up to a \$250,000 fine -- up to ten years,
3 -- I'm sorry -- supervised release of not more than three
4 years and a mandatory one hundred dollar special assessment
5 for all four counts.

6 Mr. Wilson, do you understand the four charges and
7 the four possible penalties from the Eastern District of
8 Missouri?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. I previously advised you of
11 your constitutional rights.

12 Do you need a reminder of your right to remain
13 silent?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Do you need a reminder of your right to
16 counsel?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: You have the same trial rights on the
19 Missouri indictment as you do on the current indictment, on
20 the Nebraska indictment.

21 Do you need a reminder of your trial rights?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Now, my understanding is you haven't
24 actually appeared before the Missouri court on the Missouri
25 indictment.

1 You have at least -- you have the right to take at
2 least thirty days after you appear before that court to
3 decide how you want that indictment to be handled, whether
4 pleading guilty or whether going to trial.

5 Knowing that you could take additional time, first
6 of all going back to Missouri and then taking at least thirty
7 days thereafter, do you want to still plead guilty here
8 today?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Please raise your right
11 hand.

12 Do you solemnly swear to tell the truth, the whole
13 truth, and nothing but the truth?

14 THE DEFENDANT: Yes.

15 THE COURT: You're now under oath. You have sworn
16 to tell the truth, which means if you lie during this
17 proceeding you can be separately prosecuted for the crime of
18 perjury. Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: You've already heard the charge in the
21 Missouri indictment to which you are intending to plead
22 guilty.

23 I'm going to have Ms. Woods in a moment here
24 describe the charge in the Nebraska indictment to which you
25 intend to plead guilty.

1 Before we go down that path, though, I need to make
2 sure you understand, sir, that I am not your sentencing judge
3 and I am not the judge who is going to determine whether your
4 guilty pleas are accepted and whether your plea agreements
5 are accepted.

6 Those matters will be taken up by Judge Gerrard, who
7 is your sentencing judge.

8 But what I can do for you today is gather some
9 information from you and make a recommendation to him on
10 those issues.

11 Do you agree to proceed before me?

12 THE DEFENDANT: Yes.

13 THE COURT: At this time then I'm going to have
14 Ms. Woods explain the Nebraska indictment to which you intend
15 to plead guilty and the possible penalties you face.

16 Ms. Woods?

17 MS. WOODS: Yes, Your Honor. In the District of
18 Nebraska two counts were charged.

19 The first count is the count to which the defendant
20 intends to plead guilty today, is my understanding.

21 Count I alleges that on or about October 23rd, 2017,
22 in the District of Nebraska and elsewhere, the defendant,
23 Taylor Michael Wilson, did knowingly attempt to and threaten
24 to wreck, derail and disable a mass transportation vehicle,
25 that being Amtrak train A61198, a mass transit provider, and

1 a railroad carrier engaged in interstate commerce.

2 In order to commit the offense he had to cross the
3 state line and that aided in the commission of the offense
4 and the railroad track equipment was carrying passengers and
5 employees at the time of the offense.

6 This is in violation of 18, United States Code,
7 Section 1992(a)(1)(10) and Section (b)(1) for the penalty.

8 The possible penalty for that offense is up to life
9 in prison, up to a \$250,000 fine, and up to three years of
10 supervised release -- I'm sorry -- up to five years of
11 supervised release.

12 Mr. Wilson, do you understand Count I and the
13 possible penalties?

14 THE DEFENDANT: Yes.

15 MS WOODS: There is also a mandatory one hundred
16 dollar special assessment. Do you understand that?

17 THE DEFENDANT: Yes.

18 MS. WOODS: Your Honor, would you like me to
19 summarize the count he's not pleading to?

20 THE COURT: No. He's already been arraigned on that
21 one. I just wanted to make sure he understood everything
22 that was pending against him out of Missouri before we go
23 forward.

24 Do you understand the charges in Count I of the
25 Nebraska indictment and the possible penalties?

1 THE DEFENDANT: Yes.

2 THE COURT: And do you understand the charges in
3 Count IV of the Missouri indictment and the possible
4 penalties?

5 THE DEFENDANT: Yes.

6 THE COURT: Having heard that information again, is
7 it still your intent to plead guilty?

8 THE DEFENDANT: Yes.

9 THE COURT: I have in front of me a petition to
10 enter a plea of guilty and two plea agreements. Do you have
11 those documents in front of you?

12 THE DEFENDANT: Yes.

13 THE COURT: Going to the petition, it has all of
14 those questions and answers in it, it appears that you signed
15 that on July 10th. Is that right?

16 THE DEFENDANT: Yes.

17 THE COURT: And you signed both of the plea
18 agreements on the same date; is that correct?

19 THE DEFENDANT: Yes.

20 THE COURT: When you went over these documents was
21 Mr. Sena, your attorney, with you?

22 THE DEFENDANT: Yes.

23 THE COURT: Going to the petition to enter a plea of
24 guilty, that has all those questions and answers in it, did
25 you read the questions?

1 THE DEFENDANT: Yes.

2 THE COURT: Is this your handwriting or your
3 attorney's?

4 THE DEFENDANT: His.

5 THE COURT: I take it then that you answered the
6 questions out loud?

7 THE DEFENDANT: Yes.

8 THE COURT: Were the answers you stated out loud
9 true?

10 THE DEFENDANT: Yes.

11 THE COURT: Did Mr. Sena write down your answers?

12 THE DEFENDANT: Yes.

13 THE COURT: Did he write them down correctly?

14 THE DEFENDANT: Yes.

15 THE COURT: And after going through the document did
16 you sign it?

17 THE DEFENDANT: Yes.

18 THE COURT: Going to the plea agreement, first of
19 all the plea agreement that comes out of Missouri, did you
20 read the plea agreement?

21 THE DEFENDANT: Yes.

22 THE COURT: Did your attorney explain the plea
23 agreement to you?

24 THE DEFENDANT: Yes.

25 THE COURT: Were there any questions about this plea

1 agreement that he was unable to answer?

2 THE DEFENDANT: No.

3 THE COURT: Going to the plea agreement out of
4 Nebraska, did you read that plea agreement?

5 THE DEFENDANT: Yes.

6 THE COURT: Did your attorney explain it to you?

7 THE DEFENDANT: Yes.

8 THE COURT: Were there any questions about that plea
9 agreement that he was unable to answer?

10 THE DEFENDANT: No.

11 THE COURT: And after going through the plea
12 agreements, did you sign them?

13 THE DEFENDANT: Yes.

14 THE COURT: And after going through the petition,
15 did you sign it?

16 THE DEFENDANT: Yes.

17 THE COURT: When you went over these documents on
18 July 10th, were you under the influence of drugs or alcohol
19 or anything that would impair your thinking?

20 THE DEFENDANT: No.

21 THE COURT: Are you under the influence of anything
22 right now?

23 THE DEFENDANT: No.

24 THE COURT: Has anybody threatened you in any way to
25 get you to plead guilty?

1 THE DEFENDANT: No.

2 THE COURT: Has anybody promised you anything, other
3 than the promises in the plea agreements themselves, to get
4 you to plead guilty?

5 THE DEFENDANT: No.

6 THE COURT: Do you understand, sir, if the court
7 accepts your plea of guilty you will be found guilty of a
8 felony?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that you have the
11 right to plead not guilty and make the government try to
12 prove this case at trial?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand you are giving up your
15 trial rights by pleading guilty?

16 THE DEFENDANT: Yes.

17 THE COURT: You've been represented in this case by
18 Mr. Sena. Is that correct?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you believe that he has investigated
21 this case sufficiently so that you know what to do today?

22 THE DEFENDANT: Yes.

23 THE COURT: Are you satisfied with his
24 representation?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand, sir, that if you
2 chose to go to trial you would have the right to counsel
3 representation at the trial?

4 THE DEFENDANT: Yes.

5 THE COURT: And if you could no longer afford
6 counsel representation, counsel could be appointed for you at
7 no cost to you. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that if you chose to
10 go to trial you would have a jury trial?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that at that trial you
13 would have right to see and hear the witnesses who testify
14 against you and to have them cross-examined on your behalf?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that you would have
17 the right to call witnesses for you and if they will not come
18 voluntarily you can get a court order called a subpoena to
19 make them come and testify?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that if you chose to
22 go to trial you could testify yourself if you wanted to or
23 you could exercise your right to remain silent?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that if you remain

1 silent at the trial the jury would not be allowed to consider
2 that silence in deciding whether you are guilty?

3 THE DEFENDANT: Yes.

4 THE COURT: And finally, sir, do you understand that
5 if you chose to go to trial the government would not get a
6 conviction against you on either the Nebraska or the Missouri
7 charges unless it was able to prove to every single juror
8 that you were guilty beyond a reasonable doubt?

9 THE DEFENDANT: Yes.

10 THE COURT: Are you willing to give up all of those
11 trial rights and plead guilty in this case instead?

12 THE DEFENDANT: Yes.

13 THE COURT: With a guilty plea you will have a
14 felony record and with that felony record comes the loss of
15 civil rights.

16 Those rights include the right to vote, the right to
17 serve on a jury, the right to hold a public office, the right
18 to carry a weapon.

19 You can also lose federal benefits, but you will
20 lose rights. Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: And knowing that you will lose civil
23 rights, are you willing to plead guilty?

24 THE DEFENDANT: Yes.

25 THE COURT: You're looking at a sentence in this

1 case on Count I of the Nebraska indictment of up to life in
2 prison.

3 A possible fine of up to \$250,000 could be imposed
4 in addition to any term of imprisonment.

5 Supervised release of at least five years and a one
6 hundred dollar mandatory special assessment.

7 Is that your understanding of what you're facing on
8 the Nebraska indictment?

9 THE DEFENDANT: Yes.

10 THE COURT: On the Missouri indictment you are
11 facing up to ten years in prison, a possible fine of up to --
12 is that supposed to be ten thousand dollars?

13 MS. WOODS: It's actually 250, according to the
14 section, Your Honor. That's what I advised. I think it's an
15 error in the agreement.

16 I don't think we will seeking a fine in this case,
17 but in an abundance of caution I advised of the highest
18 possible, which from review of the statute was 250.

19 THE COURT: And it is up to five years of -- three
20 years of supervised release; is that correct?

21 MS. WOODS: Yes, Your Honor, that's correct.

22 THE COURT: So we should correct this, probably
23 should correct the petition to say 250 instead of ten
24 thousand.

25 MS. WOODS: Your Honor, I think that's not the

1 defense's fault. I know St. Louis put it in their penalty
2 portion of their agreement, so that's probably where it came
3 from.

4 THE COURT: Does somebody have the original? Let's
5 correct it by interlineation to \$250,000 and have your client
6 initial that.

7 All right, and we'll get a copy of the corrected one
8 after the hearing is over, but for right now on Count IV of
9 the Missouri indictment you are facing up to ten years in
10 prison, a possible fine of up to \$250,000, or both the fine
11 and imprisonment, supervised release of up to three years,
12 and a one hundred dollar special assessment.

13 Is that your understanding of what you're facing on
14 the Missouri indictment?

15 THE DEFENDANT: Yes.

16 THE COURT: Has Mr. Sena explained the sentencing
17 guidelines to you?

18 THE DEFENDANT: Yes.

19 THE COURT: Has he explained that those guidelines
20 provide the starting point that Judge Gerrard will look at in
21 determining what your sentence ought to be?

22 THE DEFENDANT: Yes.

23 THE COURT: Has he explained that those guidelines
24 provide only the starting point that Judge Gerrard will look
25 at?

1 THE DEFENDANT: Yes.

2 THE COURT: For example, he's going to consider such
3 things as the facts underlying the counts that are being
4 dismissed in this case. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: He's also going to look at whether you
7 have a criminal history, what kinds of crimes are reflected
8 in that criminal history, those types of things. Do you
9 understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: And once Judge Gerrard considers all of
12 your relevant conduct and makes his findings, do you
13 understand he can sentence you within the guidelines that
14 you've discussed with Mr. Sena, but he doesn't have to. Do
15 you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that he can sentence
18 you above or below those guidelines, based upon his
19 determination?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And once Judge Gerrard determines how
22 much time you will spend in prison, do you understand you
23 will be required to serve all of that time?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand the most you could

1 ever get off that sentence is 54 days per year for good time
2 served, and then only if you earn that good time while in
3 prison?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Now after you serve your time in prison
6 you will be placed on supervised release for up to five
7 years.

8 I want to make sure that you understand what that
9 means.

10 At the time of sentencing Judge Gerrard can include
11 a list of rules that you have to follow for up to five years
12 after you get out of jail.

13 Those are called conditions of release. Do you
14 understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that if you violate
17 those rules you can be brought back to court and sent back to
18 jail?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that if you violate
21 those rules by committing another crime your penalty or
22 sentence on that separate crime could be greater than it
23 otherwise would have been, merely because you were still
24 serving the sentence in these cases when you committed the
25 next crime. Do you understand?

1 THE DEFENDANT: Yes.

2 THE COURT: You will be required to pay a one
3 hundred dollar mandatory special assessment per count to
4 which you are pleading guilty for a total of two hundred
5 dollars. Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Is there restitution in this case?

8 MS. WOODS: There could be, Your Honor, in Nebraska.

9 THE COURT: On the Nebraska case in particular the
10 government may present evidence of the harm you caused by
11 your criminal conduct and they'll present that evidence to
12 Judge Gerrard at the time of sentencing. Do you understand
13 that?

14 THE DEFENDANT: Yes.

15 THE COURT: Judge Gerrard after considering that
16 evidence may require you, as part of your sentence, to pay
17 for that harm. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: By the way, that is called restitution.
20 In other words, when you have to pay for the conduct that you
21 caused, or the harm you've caused by criminal conduct, that
22 is called restitution and can be imposed as part of your
23 sentence in this case. Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. You have two plea agreements

1 with the government. One arises out of Missouri, one arising
2 out of Nebraska.

3 At this time I am going to have Ms. Woods explain
4 those plea agreements to you aloud.

5 I'm going to have her start with Missouri and end
6 with Nebraska.

7 Please listen as she does that. I will ask you
8 questions about what she says.

9 And in fact after Missouri is done, I will ask him
10 if he understands it, and then we will go to Nebraska and ask
11 him if he understands it. All right? Ms. Woods.

12 MS. WOODS: I think while we're doing
13 interlineations, I notice the St. Louis agreement has him as
14 Tyler in the first line of their parties paragraph.

15 THE COURT: Let's get that fixed, too. My guess is
16 they scrambled to pull this together for today. Understood.

17 MR. SENA: Your Honor, we fixed both the Tyler and
18 the 250.

19 THE COURT: Thank you. Now listen to Ms. Woods.

20 MS. WOODS: Mr. Wilson, it's my understanding of
21 your agreement with the Eastern District of Missouri that you
22 have agreed to plead guilty to Count IV of their indictment.

23 That you are represented by Mr. Sena in this case
24 and this agreement only binds the United States Attorney's
25 Office for the Eastern District of Missouri and no other

1 office.

2 In addition, in exchange for your plea of guilty to
3 Count IV, the Eastern District of Missouri has agreed to
4 dismiss Counts I, II, and III at the time of sentencing and
5 not to seek any further federal prosecution against you in
6 that district relative to possession of machine guns and
7 unregistered firearms.

8 In addition, you agree that the guidelines that you
9 have agreed to with the Eastern District of Missouri are the
10 result of negotiation and analysis by both sides and that
11 yourself or the Eastern District could seek a higher or lower
12 guidelines range at the time of sentencing.

13 You have also agreed to forfeit to the United States
14 a list of property which is laid out in that agreement.

15 The first eight items are all weapons that are
16 described by serial number, make and model.

17 And then beginning with items 9 through 16, these
18 are items that they identified that were seized but the
19 serial numbers had either been removed or altered, and all of
20 these firearms were seized on December 22nd, 2017, and the
21 forfeiture also includes body armor and ballistic materials,
22 ammunition and firearms magazines.

23 It is my further understanding of your agreement
24 with them that there are certain guidelines agreements that
25 you have all reached together and the first is that the base

1 offense level is 18 for this.

2 That the specific offense characteristic of an
3 increase of four levels for an obliterated serial number is
4 appropriate in your case and that you should receive a
5 reduction for acceptance of responsibility if your
6 responsibility meets that as defined by this agreement.

7 In addition to that the determination of your
8 criminal history category will be left to the court and the
9 parties agree the court is not bound by the guidelines
10 analysis of this agreement because the parties may not have
11 foreseen all the applicable guidelines. The court may in its
12 discretion apply or not apply them.

13 There is also waiver of appeal and post-conviction
14 rights that you have agreed to in this agreement.

15 Specifically on direct appeal with non-sentencing
16 issues, you have waived all right to appeal
17 non-jurisdictional, non-sentencing issues, and that is
18 including and not limited to pretrial motions, discovery,
19 this plea of guilty, and the constitutionality of the statute
20 to which you are pleading guilty.

21 In regards to sentencing issues, you waive your
22 right to appeal all sentencing issues, other than criminal
23 history, and then only when it affects the base offense level
24 or the criminal history category.

25 The government also waives right to appeal

1 specifically all sentencing issues, other than criminal
2 history, provided this plea is accepted.

3 There is also a post-conviction appellant process
4 and/or a collateral attack and in regards to that you have
5 waived rights to attack that unless you have a claim of
6 prosecutorial misconduct or ineffective assistance of
7 counsel.

8 It is also part of your agreement with the Eastern
9 District of the Missouri that you will waive rights to any
10 records that pertain to this case.

11 And that the forfeiture items that we outlined
12 earlier, that you are agreeing you will waive your interest
13 in those items seized by law enforcement over the course of
14 the investigation.

15 Finally in paragraph nine you have agreed to waive a
16 series of rights in relation to your case, whether it's
17 pretrial, rights to a jury trial, and all of those are listed
18 out in detail here, and that is also part of your agreement
19 with the Eastern District of Missouri, that you are
20 acknowledging that you are voluntarily waiving all of those
21 trial and pretrial rights.

22 You've also agreed that your plea of guilty is
23 freely and voluntarily made and entered into and is of your
24 own free will and you are in fact guilty of Count IV of their
25 indictment.

1 Finally you have agreed that you have no right to
2 withdraw this plea entered into the agreement unless the
3 court rejects it.

4 That is my understanding of the agreement with the
5 Eastern District of Missouri, Your Honor.

6 THE COURT: Mr. Sena, does that fairly summarize the
7 agreement out of Missouri?

8 MR. SENA: Yes, Your Honor.

9 THE COURT: Mr. Wilson, did you listen as Ms. Woods
10 described that agreement?

11 THE DEFENDANT: Yes.

12 THE COURT: Does her description match your
13 understanding of your agreement out of Missouri?

14 THE DEFENDANT: Yes.

15 THE COURT: Under this agreement you are agreeing
16 that you are waiving your right to appeal with limited
17 exceptions.

18 Those exceptions appear to be -- you are waiving
19 your right to appeal except as to claiming this court didn't
20 have jurisdiction, or what you are admitting to here today is
21 not a crime, or you're not waiving your right to appeal, I
22 take it, if I'm understanding this correctly, if the
23 government or if Judge Gerrard does not -- what is the
24 sentencing one? Theirs looks so different than ours.

25 MS. WOODS: It is very different than ours. It

1 looks like they break it up into sentencing and
2 non-sentencing and the sentencing issues are narrower, is the
3 way I read it, than non-sentencing.

4 THE COURT: You are waiving your right to appeal any
5 sentencing issues, other than criminal history, and the
6 government is waiving all sentencing issues, other than
7 criminal history, provided the court accepts the plea. Do
8 you understand all of these exceptions?

9 THE DEFENDANT: Yes.

10 THE COURT: Has your attorney gone over them with
11 you?

12 THE DEFENDANT: Yes.

13 THE COURT: You are also giving up your right to
14 collateral attack.

15 What collateral attack means is you can challenge
16 your conviction and your sentence by claiming your
17 constitutional rights were violated during this process. Do
18 you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: Under the Missouri agreement you're
21 giving up your right to collateral attack unless you are
22 claiming that the prosecutor committed misconduct, or that
23 your attorney provided you with ineffective assistance of
24 counsel. Do you understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: Did you agree to those waivers of appeal
2 rights and post-conviction rights in the Missouri plea
3 agreement?

4 THE DEFENDANT: Yes.

5 THE COURT: With the exceptions listed in that plea
6 agreement, correct?

7 THE DEFENDANT: Yes.

8 THE COURT: Now I am going to have Ms. Woods explain
9 the Nebraska plea agreement, which is somewhat different than
10 the Missouri one.

11 So I'm glad that you have an attorney who sat down
12 and talked to you about all of this. Ms. Woods?

13 MS. WOODS: Thank you, Your Honor. Mr. Wilson, it's
14 my understanding of your agreement with the District of
15 Nebraska that you have agreed to plead guilty to Count I of
16 the Nebraska indictment which charges a violation of 18,
17 United States Code, Section 1992.

18 In exchange for that the United States will move to
19 dismiss Count II at the time of sentencing and agrees that
20 you will not be federally prosecuted for any firearms or
21 national security crimes as disclosed in the discovery
22 material.

23 The plea agreement with the District of Nebraska is
24 part of a package disposition and what that means is
25 essentially in order for you to get the benefits of this

1 agreement you must also plead guilty at the same time to
2 Count IV of the indictment issued by the grand jury for the
3 Eastern District of Missouri and that would be the agreement
4 we just summarized.

5 Count IV of that indictment charges you with knowing
6 receipt and possession of an unregistered firearm, and that
7 is that Scorpion rifle that we discussed earlier.

8 And it's my further understanding of the agreement
9 that it only binds the United States Attorney's Office for
10 the District of Nebraska and binds no other prosecuting
11 authority.

12 Just as you did in the Eastern District of Missouri
13 agreement, you've made agreements with us about the
14 sentencing guidelines in your case, but again the parties
15 understand that these are advisory guidelines and only one of
16 the factors the court will consider in your case.

17 First off the parties agree the base offense level
18 for Count I is level 30 pursuant to the guideline listed.

19 The parties agree there is a four level increase
20 because a dangerous weapon was otherwise used or threatened.

21 And also the parties agree to a reduction in your
22 case for acceptance of responsibility if the terms of that
23 are met.

24 The parties disagree as to whether role adjustments
25 apply and each party reserves the right to put forward

1 evidence at sentencing for its side.

2 You do acknowledge that restitution will be ordered
3 in this case.

4 You retain the right to recommend or request
5 additional downward departures and adjustments in your case
6 at the time of sentencing if you make motions to that effect.

7 You have also waived your right to appeal and
8 collateral attack in this agreement.

9 In the case in the District of Nebraska you have
10 waived all rights on direct appeal except for a claim of
11 ineffective assistance of counsel.

12 And then in that collateral attack or
13 post-conviction proceeding that we've previously described to
14 you, you still retain appellant rights in two areas, and that
15 is a claim based on ineffective assistance of counsel, and a
16 legal determination by a higher court that 18, United States
17 Code, Section 1992, the charge to which you are pleading, has
18 failed to state a crime.

19 I believe, Your Honor, that is it for the key
20 provisions of our agreement.

21 THE COURT: All right. Mr. Sena, do you believe
22 that that fairly summarizes the Nebraska plea agreement?

23 MR. SENA: Yes, Your Honor.

24 THE COURT: Mr. Wilson, did you listen as Ms. Woods
25 described that agreement?

1 THE DEFENDANT: Yes.

2 THE COURT: Does her description match your
3 understanding of your agreement with the government in
4 Nebraska?

5 THE DEFENDANT: Yes.

6 THE COURT: Under the terms of this plea agreement
7 there is, like the Missouri one, waivers of appeal and
8 collateral attack and I need to make sure you understand what
9 you're giving up there.

10 Whether in the Missouri case or in the Nebraska case
11 you have the right to appeal, unless you give up that right,
12 and what that means is have another set of judges look at
13 everything that's been done in this case, and in the Missouri
14 case, and make sure that it was done right. Do you
15 understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: And do you understand that in both cases
18 that would go up to what is called the Eighth Circuit Court
19 of Appeals, because Missouri and Nebraska are both part of
20 the Eighth Circuit. Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that in both cases you
23 are giving up your right to appeal, unless you are claiming
24 that what you're admitting to here today is not a crime, or
25 you are claiming that Mr. Sena provided you with ineffective

1 assistance of counsel?

2 THE DEFENDANT: Yes.

3 THE COURT: Collateral attack is different than an
4 appeal, like we've discussed before.

5 With a collateral attack you can challenge your
6 conviction and your sentence by claiming your constitutional
7 rights were violated. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: I've already discussed with you the
10 exceptions in the Missouri case, in that one you can
11 challenge on collateral attack if there's prosecutorial
12 misconduct and ineffective assistance of counsel. Do you
13 understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: In Nebraska you can challenge if you
16 claim that what you're admitting to here today is not a
17 crime, or you are claiming that your attorney provided you
18 with ineffective assistance of counsel. Do you understand
19 that?

20 THE DEFENDANT: Yes.

21 THE COURT: Have you talked to your attorney about
22 your appeal rights and your collateral attack rights?

23 THE DEFENDANT: Yes.

24 THE COURT: Has he answered all of your questions
25 about both of those?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that your waivers of
3 appeal and your waivers of collateral attack, with the
4 exceptions listed in these plea agreements, apply both to you
5 conviction and to the sentence you've not yet received?

6 THE DEFENDANT: Yes.

7 THE COURT: After having your discussions with your
8 attorney, reading these documents, and asking all of the
9 questions you needed to ask, and getting those answers to
10 those questions, have you decided to give up your right to
11 appeal and your right to collateral attack with the
12 exceptions listed in these plea agreements?

13 THE DEFENDANT: Yes.

14 THE COURT: Has anybody made any promises to you
15 that are not in these plea agreements?

16 THE DEFENDANT: No.

17 THE COURT: Do you understand that whether you plead
18 guilty or whether you're found guilty at trial you could get
19 the same sentence?

20 THE DEFENDANT: Yes.

21 THE COURT: Putting it another way, do you
22 understand there's no guarantee your sentence will be less
23 because you've pled guilty rather than being found guilty by
24 a jury?

25 THE DEFENDANT: Yes.

1 THE COURT: At this time then I'm going to have
2 Ms. Woods explain the factual basis for the plea.

3 I'm going to start with this, though. There's a
4 long factual basis in both of those plea agreements.

5 Did you have a chance to go over the plea agreements
6 with your attorney, sir?

7 THE DEFENDANT: Yes.

8 THE COURT: Did you read the factual basis in both
9 of the plea agreements?

10 THE DEFENDANT: Yes.

11 THE COURT: Are the facts as set forth in those two
12 plea agreements the truth?

13 THE DEFENDANT: Yes.

14 THE COURT: Then what I'm going to do at this point
15 is have Ms. Woods explain the key facts.

16 In other words, facts to support each element of the
17 case against you as to the counts to which you're pleading
18 guilty, instead of going over everything that's in the plea
19 agreement.

20 I want you to listen to what she says because I'm
21 going to ask you questions about that. Ms. Woods?

22 MS. WOODS: Thank you, Your Honor. Actually that
23 transitions into what I am going to do with the Missouri
24 agreement.

25 Essentially the facts in Nebraska are the first

1 couple pages.

2 Since we are going to go over those in the District
3 of Nebraska agreement and they're not necessarily essential
4 for the firearm, I'm going to begin with the search warrant
5 in Missouri.

6 THE COURT: Okay.

7 MS. WOODS: Essentially, sir, that is the FBI
8 developed information that you were residing at a certain
9 address in St. Charles, Missouri, in the Eastern District of
10 Missouri.

11 They executed a search warrant there where they
12 found a hidden compartment in a wall where they located a
13 tactical vest, AR-15 magazines, approximately 190 rounds,
14 some large capacity magazines for a rifle, some tactical
15 White Feather ammunition, white supremacist documents, a copy
16 of Hitler's "Mein Kampf", some gunpowder, a pressure plate
17 which is typically designed as a trigger for an improvised ed
18 explosive device, as well as a handmade shield bearing a
19 swastika.

20 As a result of that communications were had with
21 someone known to the defendant and the parties and at that
22 time that individual also turned over numerous firearms
23 belonging to you, and those firearms are specifically listed
24 out and there are, I believe, sixteen there, and one of them
25 is the firearm that is the basis of Count IV.

1 So those firearms included a machine gun with a
2 defaced serial number and then a short barrel rifle that was
3 less than 18 inches, that was not registered, and that is the
4 weapon that is the subject of Count IV.

5 And those firearms were not registered to you in the
6 National Firearms Registration and Transfer Record, which is
7 one of the core facts for Count IV.

8 That's my understanding of the critical facts for
9 Missouri, Your Honor.

10 THE COURT: Mr. Sena, do you agree if this case went
11 to trial that evidence would go before a jury?

12 MR. SENA: Yes, Your Honor.

13 THE COURT: Mr. Wilson, did you listen as Ms. Woods
14 described that evidence against you?

15 THE DEFENDANT: Yes.

16 THE COURT: Is what she said the truth?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Moving on then to the
19 Nebraska facts.

20 MS. WOODS: Yes, Your Honor. The key facts that
21 would have gone into evidence at trial in this case and that
22 are being undisputed between the parties are that on or about
23 October 19th, 2017, the defendant boarded a specific Amtrak
24 train in California and remained on board as it crossed into
25 the state of Nebraska and the District of Nebraska.

1 His luggage on that train consisted of a mask,
2 camera, knife, speed loaders, ammunition, identification
3 cards for the Nationalist Socialist Movement and a sleeping
4 bag.

5 He also carried a .380 caliber handgun on his person
6 during that trip.

7 With that handgun still on him he entered a secured
8 engine compartment of the train on October 21st, 2017.

9 There were signs posted outside it was an
10 unauthorized area.

11 He proceeded to disable the train and cut the lights
12 to the train which caused an emergency alert to go out.

13 Passengers were in the dark running up and down the
14 aisle and some were trying to escape through the windows in a
15 panic.

16 There were 175 passengers on board that day as well
17 as numerous Amtrak employees and conductors.

18 Amtrak trains are mass transportation vehicles as
19 defined by federal law.

20 One conductor located the defendant inside the
21 engine compartment of the train and he worked with a few
22 other conductors to forcibly remove the defendant.

23 As they worked together to subdue him the defendant
24 claimed to be the new conductor of the train.

25 While one conductor tried to subdue him the

1 defendant tried to break free and grabbed for his waistband
2 where first responders would later recover a handgun at the
3 time of his arrest.

4 Deputies responded from two counties in Nebraska to
5 the train scene which was in a remote area.

6 The first one that arrived on the scene located a
7 handgun on the defendant's waistband.

8 When approached by the deputy, the defendant denied
9 he was armed.

10 The second deputy wore a body camera on the outside
11 of his uniform.

12 This video footage captured the first deputy
13 disarming the defendant as one of the conductors assisted.

14 The video depicts the defendant turning towards the
15 second deputy as he walked up to the defendant and the
16 defendant makes a shooting sound at him, then turns to others
17 in the crowd and makes a shooting sound at the conductor.

18 The defendant uttered racial slurs and insults to
19 the conductor and when asked if he was a crazy fanatical type
20 replied no comment and he did admit to stopping the train.

21 An Amtrak investigator's summary of the incident
22 found the defendant did not -- did also make a statement
23 about taking a train to the stars and trying to find a
24 conductor, and that investigator's investigation did not
25 recover a specific statement of violence but he also did not

1 interview government witnesses and completed his
2 investigation at defense request.

3 In late December there was a search warrant executed
4 in Missouri which we have summarized in the Eastern District
5 case.

6 In addition to firearms and pressure plate
7 summarized there were also documents and evidence of the
8 defendant's ideologies.

9 A collection of papers were recovered that included
10 a few comments such as bushwhackers, guerillas, IRA, PLO, SS,
11 pretty much who I would like to be.

12 The defendant also wrote about Iran and Saudi are
13 going to duke it out pretty soon, need to get a plane ticket,
14 if someone knocked on the door I would go.

15 He wrote a play entitled "ISIS Patrols on America's
16 streets.

17 The defendant also was found to have purchased a
18 plane ticket with plans to travel to Syria in the year prior
19 to this incident.

20 It was further determined, though, that he decided
21 not to go, but the plan would have been to fight with ISIS.

22 There were also numerous derogatory and threatening
23 comments about the Jewish race, African-Americans, the
24 American government, and the media in these writings.

25 The defendant told his cellmate that he dropped acid

1 right before he loaded his weapon and entered the secure
2 compartment of the train.

3 THE COURT: All right. Mr. Sena, do you agree if
4 this case went to trial that evidence would go before a jury?

5 MR. SENA: I would agree that evidence would be
6 presented to the jury, Your Honor.

7 THE COURT: Mr. Wilson, did you listen as the
8 government described the evidence against you on the Nebraska
9 indictment?

10 THE DEFENDANT: Yes.

11 THE COURT: Is everything she said true?

12 THE DEFENDANT: I would like to dispute some things
13 she said on -- yeah, about the plane ticket and wanting to
14 fight with ISIS.

15 THE COURT: Okay. Other than that, other than those
16 comments, was it true?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Going to the Nebraska indictment, on
19 October 23rd of 2017 were you in Nebraska?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: While in Nebraska were you on an Amtrak
22 train?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you agree that an Amtrak train is a
25 train that crosses state lines, in other words from in this

1 case California going across Nebraska?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: While on the Amtrak train did you
4 attempt to stop the train?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Did you actually stop the train?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: In doing so were you trying to take
9 authority over the train?

10 THE DEFENDANT: Uh --

11 THE COURT: Why did you stop it?

12 THE DEFENDANT: I was high.

13 THE COURT: Were you attempting at that point in
14 time to -- well, do you know whether all of the lights went
15 off in the entire train?

16 THE DEFENDANT: No, I couldn't tell you.

17 THE COURT: Were you attempting to disable the train
18 from moving down the track?

19 THE DEFENDANT: Yes.

20 THE COURT: Did you have on your possession at the
21 time a gun in your waistband?

22 THE DEFENDANT: Yes.

23 THE COURT: Did you use that gun to threaten a
24 conductor?

25 THE DEFENDANT: No.

1 THE COURT: Did you use that gun in the conductor's
2 area?

3 THE DEFENDANT: No.

4 THE COURT: Did the conductor attempt to subdue you?

5 THE DEFENDANT: Yes.

6 THE COURT: While they were trying to do that did
7 you break free and tray to grab for your waistband where your
8 gun was?

9 THE DEFENDANT: No.

10 THE COURT: Well, let's go over what you said, and
11 you told me -- this is in your plea agreement.

12 As the conductors worked together to subdue the
13 defendant the defendant said, "I'm the conductor now, bitch."

14 While one conductor tried to subdue the defendant,
15 the defendant tried to break free and grab for his waistband
16 where first responders would later recover the handgun from
17 the defendant at his arrest. Did you agree to that?

18 THE DEFENDANT: Yes.

19 THE COURT: Is that the truth?

20 THE DEFENDANT: Yes.

21 THE COURT: And all this happened in Nebraska?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. Ms. Woods do you believe the
24 guilty plea -- do you have any additional questions on
25 Nebraska?

1 MS. WOODS: I do, Your Honor. I think we should
2 make sure it's clear that the carrier is engaged in
3 interstate commerce and that there were passengers on board
4 because it enhances the statutory penalty.

5 THE COURT: I believe I did ask him about whether
6 Amtrak crosses state lines.

7 Do you agree that it covers, it goes across state
8 lines and it operates in interstate commerce?

9 THE DEFENDANT: Yes.

10 THE COURT: And do you agree that there were in
11 addition to you other passengers on board that train?

12 THE DEFENDANT: Yes.

13 THE COURT: Any additional questions?

14 MS. WOODS: No, Your Honor, thank you.

15 THE COURT: Any additional questions, Mr. Sena?

16 MR. SENA: No, Your Honor.

17 THE COURT: Does the government believe as to
18 Count I of the Nebraska indictment that the guilty plea is
19 knowing, intelligent and voluntary?

20 MS. WOODS: Yes, Your Honor.

21 THE COURT: Do you agree, Mr. Sena?

22 MR. SENA: Yes, Your Honor.

23 THE COURT: Mr. Wilson, as to Count I of the
24 Nebraska indictment, do you have any questions?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: To the indictment which alleges that on
2 October 23rd of 2017, while in the District of Nebraska, you
3 did knowingly and without lawful authority attempt to
4 threaten to wreck, derail or disable a railroad train, in
5 this specific instance an Amtrak train that was traveling in
6 interstate commerce with passengers on board, what do you
7 plead?

8 THE DEFENDANT: Guilty.

9 THE COURT: Now we are going to the Missouri one.
10 In December of 2017 did you have a residence in Missouri?

11 THE DEFENDANT: Yes.

12 THE COURT: And was it in the Eastern District of
13 Missouri close to St. Louis?

14 THE DEFENDANT: Yes.

15 THE COURT: In that residence were you in possession
16 of firearms?

17 THE DEFENDANT: Yes.

18 THE COURT: Did you have the firearms that are
19 listed in the guilty plea agreement from Missouri on pages
20 two through three?

21 THE DEFENDANT: Yes.

22 THE COURT: Specifically were you in possession of a
23 nine millimeter Luger caliber CZ model Scorpion Evo 3 S1
24 rifle?

25 THE DEFENDANT: Yes.

1 THE COURT: And do you agree that it was not
2 registered with the National Firearms Registration and
3 Transfer Record?

4 THE DEFENDANT: Yes.

5 THE COURT: Any additional questions?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Any additional questions, Ms. Woods?

8 MS. WOODS: Just to be safe, Your Honor, did he know
9 it was required to be registered or should have been
10 registered?

11 THE COURT: Did you know you were supposed to
12 register your firearms?

13 THE DEFENDANT: Yes.

14 THE COURT: Anything else?

15 MS. WOODS: No, Your Honor.

16 THE COURT: Mr. Sena?

17 MR. SENA: Nothing further, Your Honor. I just
18 noticed the plea agreement says October 21st. We changed
19 that to the 23rd and initialed that.

20 MS. WOODS: I think that on or about should
21 encompass that.

22 THE COURT: I think we're okay. To the Missouri
23 indictment, Count IV which alleges that in December of 2017
24 while in the District of Nebraska you did knowingly receive
25 and possess a firearm that was not registered in the National

1 Firearms Registration and Transfer Record, and that you
2 knowingly did so and that it was a rifle as we described
3 before, what do you plead?

4 THE DEFENDANT: Guilty.

5 THE COURT: I do find that your guilty pleas as to
6 both the Nebraska indictment and the Missouri indictment are
7 knowing and voluntary and I will recommend that Judge Gerrard
8 accept your pleas of guilty.

9 I will also recommend that he accept your plea
10 agreements.

11 He will take up the issue of your plea agreements at
12 the time of sentencing.

13 We're looking at a sentencing date of October 5th at
14 ten. Does that work for everyone?

15 MS. WOODS: Yes, Your Honor.

16 MR. SENA: Yes.

17 THE COURT: Is there anything else we need to take
18 up at this time?

19 MS. WOODS: No, Your Honor. Thank you.

20 THE COURT: Mr. Sena?

21 MR. SENA: No, Your Honor.

22 THE COURT: All right. We are in recess.

23 (10:34 a.m. - End of Proceedings)
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C-E-R-T-I-F-I-C-A-T-E

I, Allan G. Kuhlman, do hereby certify that the foregoing transcript is a true and accurate transcription, to the best of my ability, from the digital recording of the proceedings held in this matter.

Dated July 27, 2018.

s/Allan G. Kuhlman
Allan G. Kuhlman